

CORONERS ACT 2008
SECTION 73

IN THE MATTER OF THE INQUEST INTO THE DEATH OF JEFFREY HARTWIG
– CASE NUMBER: 5822/09

An Order was made pursuant to section 73(2) of the **Coroners Act 2008** on 1 September 2011 by Coroner John Olle.

REASONS FOR DECISION

1. The death of Mr Jeffrey Hartwig is a reportable death in accordance with section 4 of the *Coroners Act 2008* (the Act) and as such is the subject of an ongoing coronial investigation.
2. On 1 September 2011, the Court became aware that evidence gathered under the authority of the coroner for the purpose of this investigation, which is not generally available except by order of a coroner, was in fact in the public domain.
3. Access to documents or investigation material is governed by section 115 of the Act. A coroner may only release a document to a party who is not the senior next of kin or an interested party in accordance with section 115(2) of the Act. A coroner may impose conditions on the release of a document and penalties apply for failure to comply with a condition. Section 115(1) of the Act governs the release of material to the senior next of kin and an interested party in an investigation. In accordance with this provision, these parties must be provided with certain documents or investigation material, unless otherwise ordered by a coroner.
4. As permitted by section 107 of the Act, the State Coroner has issued practice directions which relate to the release of documents or investigation material to parties including a senior next of kin. Practice Direction 5 of 2009 provides that as a condition of the release of documents under section 115(1)(a) of the Act, the senior next of kin is not permitted to provide copies of or publish the document(s) to any other person or persons or entity apart from family members or unless for the purpose of obtaining medical or legal advice or opinion, without the authority of the coroner. Practice Direction 5 of 2009 can be found on the Coroners Court of Victoria website. Practice Direction 6 of 2009 contains similar conditions for the release of information to other parties.

5. An Order was made on 1 September 2011 prohibiting the reporting or publication of the contents of any witness statements or document provided to the coroner in relation to the death of Mr Hartwig. In making this Order I have formed the view that publication of the material would be contrary to the public interest in accordance with section 73(2)(b) of the Act.
6. Specifically the making of this Order was necessary to protect the integrity of an open coronial investigation. The information subject to the Order is not publicly available. It contains private and sensitive material gathered by me for the purpose of the investigation which has not been formally tendered as part of the court process. In addition, the material subject to the Order includes information about individuals other than Mr Hartwig.
7. In making this order I have considered section 8(e) of the Act and the need to balance the public interest in protecting a living or deceased person's personal or private information with the public interest in the legitimate use of that information.
8. This Order is consistent with provisions of the Act governing the release of documents as well as the practice of this Court.

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CORONER JOHN OLLE

1 September 2011

